
STATUTORY INSTRUMENTS

2008 No. 1863

**The Serious Crime Act 2007 (Appeals
under Section 24) Order 2008**

PART 3

Costs of appeals in the Court of Appeal: England and Wales

CHAPTER 4

Third party costs orders: procedure

Determination of a third party costs order

29.—(1) The Court of Appeal may make a third party costs order—

- (a) subject to paragraph (3), at any time during or after the proceedings before the Court of Appeal; and
- (b) on the application of any person who is a party to the appeal or of its own initiative.

(2) The Court of Appeal shall make a third party costs order during the proceedings before the Court of Appeal only if it decides that there are good reasons to do so, rather than making the order after the proceedings before the Court of Appeal, and it shall notify the persons who are parties to the appeal and the third party of those reasons and allow any of them to make representations.

(3) Before making a third party costs order the Court of Appeal shall allow the third party and any person who is a party to the appeal to make representations and may hear evidence.

(4) When making a third party costs order the Court of Appeal may take into account any other order as to costs which has been made in respect of the proceedings before the Court of Appeal and may take the third party costs order into account when making any other order as to costs in respect of those proceedings.

(5) The amount to be paid in pursuance of a third party costs order shall be specified in the order.

(6) When a third party costs order has been made the Court of Appeal shall notify the third party and any interested party of the order and the amount ordered to be paid.

Procedure for third party costs orders

30.—(1) This article applies where a person who is a party to the appeal applies to the Court of Appeal for a third party costs order or the Court of Appeal decides that it might make a third party costs order of its own initiative.

(2) An application for a third party costs order shall be in writing and shall contain—

- (a) the name and address of the applicant;
- (b) the names and addresses of the other persons who are parties to the appeal;
- (c) the name and address of the third party against whom the order is sought;
- (d) the date of the end of the proceedings before the Court of Appeal; and

- (e) a summary of the facts upon which the applicant intends to rely in making the application, including details of the alleged misconduct of the third party.
- (3) The application shall be sent to the registrar and, upon receiving it, the registrar shall serve copies of it on the third party and the other persons who are parties to the appeal.
- (4) Where the Court of Appeal decides that it might make a third party costs order of its own initiative the registrar shall serve notice in writing accordingly on the third party and the persons who are parties to the appeal.
- (5) At the same time as serving notice under paragraph (4) the registrar shall serve a summary of the reasons why the Court of Appeal might make a third party costs order, including details of the alleged misconduct of the third party.
- (6) When the registrar serves copies of an application under paragraph (3) or serves notice under paragraph (4) the registrar shall at the same time serve notice on the persons who are parties to the appeal and the third party of the time and place fixed for the hearing.
- (7) At the time notified the Court of Appeal may proceed in the absence of the third party and of any person who is a party to the appeal if it is satisfied that they have been duly served with the notice given under paragraph (6) and the copy of the application or (as the case may be) the notices given under paragraphs (3) and (4), but the Court of Appeal may set aside any third party costs order if it is later shown that the third party did not receive them.

Recovery of sums due under a third party costs order

31. Where the person required to make a payment in respect of sums due under a third party costs order fails to do so, the payment may be recovered summarily as a sum adjudged to be paid as a civil debt by order of a magistrates' court by the person benefiting from the order, save that where that person was in receipt of services funded for that person by the Legal Services Commission or an order for the payment of costs out of central funds was made in that person's favour, the power to recover shall be exercisable by the Lord Chancellor.